

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

OP.No. 26876 of 1999(Y)

PETITIONER:

A.ABOOBACKER HAJI,
S/O.AHAMED RAWTHER,
NBS BUS SERVICE,
CHITHALY.P.O.,
KUZHALAMMANNAM,
PALAKKAD DIST.

BY ADV. SRI.S.M.PREM
SMT.K.P.SANTHI

RESPONDENTS:

1. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS
WELFARE FUND, PALAKKAD.
2. THE DEPUTY TAHSILDAR (REVENUE
RECOVERY), ALATHUR, PALAKKAD.
3. THE VILLAGE OFFICER, KUZHALMANNAM,
PALAKKAD.

R1 BY ADV. SMT.I.SHEELADEVI, SC,KMTWF BOARD

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 12/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON CMP NO.45450/1999 IN O.P. NO.26876/1999

DISMISSED:

12.11.2007

SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF NOTICE OF R3 DT.11.4.91.

P2: .DO. .DO.

P3: TRUE COPY OF JUDGMENT DT.20.11.96 ISSUED BY THIS HON'BLE COURT.

P4: TRUE COPY OF LETTER DT.1.10.99 ISSUED BY R3.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....
O.P. No.26876 of 1999
.....

Dated this the 12th day of November, 2007.

JUDGMENT

The petitioner is challenging Exts.P1 and P2 revenue recovery proceedings for recovery of arrears of Motor Transport Workers Welfare Fund for the years 1988-89 and 1989-90. It is conceded in the O.P. that petitioner has remitted contribution for the year 1987-88. It is seen that almost the same amount is demanded for the immediate succeeding year. Since petitioner was in operation of the stage carriage during the relevant years, obviously he is liable to pay contribution for the workers engaged by him. The petitioner has also admitted that he had engaged three workers in the stage carriage. Counsel for respondents submitted that demand raised is only for three workers and revenue recovery is based on final adjudication orders. Even though petitioner has stated that inspite of direction issued by this court first respondent has not forwarded any adjudication order, I see no reason why petitioner should not have filed a contempt if direction contained in Ext.P3 judgment was not complied with by the first respondent. Moreover, counsel for first respondent submitted that petitioner acknowledged receipt of final determination order on 18.5.1990

itself and the earlier O.P. was filed suppressing these facts. In any case I do not find any bonafides in the W.P. and on the facts admitted by the petitioner and stated above, petitioner is liable to pay the contribution. The amount of contribution demanded for 1988-89 also does not appear to be excessive or arbitrary because it is almost the same amount paid by the petitioner for the preceding year. However, it is not known as to why for the next year contribution for the same number of workers is almost double. Respondents also have not justified the decision for demanding almost double the amount for the immediate succeeding year. In the circumstances, I give one more opportunity to the petitioner to collect copy of the order of assessment and file appeal against 1989-90 but only after making payment under protest and subject to result of appeal. If petitioner approaches and remits the amount, first respondent will issue one more copy of the adjudication order for the petitioner to file appeal. The demand for 1988-89 is confirmed, but the petitioner is granted one month time from today to file appeal against the adjudication order for 1989-90, if remittance is made and along with receipt of payment appeal is filed within one month

from today. If payment is not made, the respondents are free to proceed with recovery.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms